

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JOHN FRANKS,

Plaintiff,

:

Case No. 3:08-cv-025

-vs-

District Judge Thomas M. Rose

Chief Magistrate Judge Michael R. Merz

:

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

REPORT AND RECOMMENDATIONS

This case is before the Court on Plaintiff's Application to Proceed *in forma pauperis* (Doc. No. 1). In completing the document, Plaintiff states he has received money within the last twelve months from some source other than the specific ones listed, but has failed to disclose the source(s) and amount(s). Furthermore, he states he has cash or a checking or savings account, but fails to disclose the amount, as is called for by the application form. Finally, he states he has a home with \$220,000, but claims without any proof that it he has a negative equity position.

Given these facts, Plaintiff has not established his entitlement to proceed *in forma pauperis*. It is therefore respectfully recommended that the Application be DENIED. In lieu of filing objections, Plaintiff may submit a properly completed application within the time allowed for objections.

January 28, 2008.

s/ **Michael R. Merz**
Chief United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir., 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).